

REMARKS

Reconsideration of the above referenced application in view of the enclosed amendments and remarks is requested. The examiner has requested any references known by the applicants to qualify as prior art under 35 USC 102 or 103 with respect to the invention as defined by the claims. No such references are known by the application or the undersigned attorney that have not already been considered by the Examiner. Claims 1-29 remain in the application.

ARGUMENT

Claims 1-29 are rejected under 35 USC 103 as being unpatentable over the Applicant's admitted prior art (hereinafter AAPA) in view of Boykin et al. (US patent Publication No. 2002/0076049A1) (hereinafter Boykin).

The Examiner asserts at page 4, lines 3-4 of the Office action dated December 17, 2004, that the AAPA of the background section of the present specification discloses "downsampling (col. 6, lines 25 et seq)". This is incorrect. There is absolutely no discussion of downsampling digital content in the background section of the specification. If the Examiner intended to refer to Boykin in this regard, correction is respectfully requested. If the Examiner intended to refer to page 6, line 25 of the present specification, a close reading of the paragraph at lines 7-25 of page 6 clearly describes the enhancement module as part of the present invention, not the prior art. With embodiments of the present invention, the enhancement module may be designed to operate on the lower fidelity content. The Applicant contends that this description is not admitted prior art at all, but part of the description of the present invention and cannot be relied on to reject the present claims.

The Examiner relies on Boykin to support an obviousness rejection of claims 1-29. Boykin has an effective date of December 19, 2000. Enclosed is a 37 CFR 1.131 affidavit signed by the Applicant which asserts a date of conception of the

present invention of at least July 27, 2000, along with diligence until a constructive reduction to practice on January 24, 2001. The effect of this affidavit is the removal of the Boykin reference as prior art for the present application. Without reliance on Boykin, the present rejections of claims 1-29 cannot stand and must be withdrawn.

Thus, claims 1-29 are allowable as presented.

CONCLUSION

In view of the foregoing, Claims 1-29 are all in condition for allowance. If the Examiner has any questions, the Examiner is invited to contact the undersigned at (503) 264-8074. Early issuance of Notice of Allowance is respectfully requested.

Respectfully submitted,

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